

## REMARKS

The Office Action dated October 27, 2009 has been received and carefully considered. In this response, claims 19-21 have been amended to correct a dependency error. Support for the amendments may be found in the specification and drawings as originally filed. Reconsideration of the outstanding rejection in the present application is respectfully requested based on the following remarks.

### Acceptance of Drawings

The Office has made no indication that the drawings have been accepted, but has not objected to the drawings. Applicants' respectfully request that the Office indicate the drawings have been accepted.

### Objection to Claims 19-21

At page 2 of the Office Action, claims 19-21 were objected to because of a dependency error. The Examiner is thanked for the courtesy and attention in identifying the error, and claims 19-21 have been amended to address the objection. Accordingly the withdrawal of the objection to claims 19-21 is respectfully requested.

### Obviousness Rejection of Claims 1-13, 16-17, 19-22, 26-29, 31-37 and 39-46

At page 2 of the Office Action, claims 1-13, 16-17, 19-22, 26-29, 31-37 and 39-46 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Porter et al. (U.S. Patent No. 6,337,947), Nakaya et al. (U.S. Patent App. Pub. No. US 2001/0012436), Ellis et al. (U.S. Patent App. Pub. No. US 2008/0184297) and Hassell et al. (U.S. Patent App. Pub. No. US 2003/0149980). This rejection is hereby respectfully traversed.

Claim 1 recites "editing at least a portion of the video stream at the information handling system to generate an edited video stream, wherein the editing is based on editing characteristics, the editing characteristics based on information selected from the group consisting of a source of the video stream, a station logo, television guide information; and a user action that modified the video stream." Claims 25, 43, and 46 recite similar features. These features are not disclosed or

rendered obvious by the cited references. In particular, the Office asserts at page 3 that Porter teaches editing characteristics based on information of a source of the video stream at column 2, lines 29-44. However, the cited portion discloses only that editing parameters can be **received** from a content provider. Neither the cited portion, nor any other portion, discloses editing based on a source of a video stream. In other words, claim 1 provides that the editing of a video stream is based on the source that provides the video stream. Porter, in contrast, discloses that a content provider can provide editing parameters, but does not disclose that the parameters indicate the source of the video stream, or that editing is performed based on the source.

With respect to the recited station logo, the Office Action asserts that these features are disclosed at paragraph 238 of Ellis. However, the cited paragraph discloses only that a recording can be edited based on a program channel and does not indicate that the channel is identified by a logo or otherwise refer to a station logo in any manner. Accordingly, Ellis does not disclose or render obvious editing a video stream based on a station logo, as provided by claim 1.

With respect to the recited television guide information, the Office asserts that these features are disclosed at claims 41 and 93 of Hassell. However, the cited portion of Hassell discloses only that an electronic program guide can be used to enter editing information. Neither the cited portion, nor any other portion of Hassell, discloses or renders obvious editing a video stream based on information included in a television guide itself. In other words, Hassell discloses an interface for providing editing information via a programming guide, while claim 1 provides for editing a video stream based on information included in the television guide itself. Accordingly, the cited references, individually and in combination, fail to disclose or render obvious at least the above-cited features of claim 1, as well as the similar features of claims 25, 43, and 46.

With respect to independent claim 32, the claim recites “editing the video stream based on a source of the video stream.” For reasons similar to those set forth above with respect to claim 1, the cited references fail to disclose or render obvious at least these elements of claim 32.

Claims 2-13, 16, 17, and 19-22 depend from claim 1. Claims 26-29 and 31 depend from claim 25. Claims 33-37 and 39-42 depend from claim 32. Claims 44 and 45 depend from claim 43. Accordingly, the cited references fail to disclose or render obvious at least one element of

each these dependent claims, at least by virtue of their respective dependence on claims 1, 25, 32, and 43. In addition, these dependent claims recite additional novel and non-obvious elements.

For example, claim 6 recites “wherein the information is based on a user action that modified the video stream,” the Office asserts that these features are disclosed by Porter at column 2, lines 27-31 and column 5, lines 4-9. However, the cited portion discloses only that a user can establish a “censoring threshold” for a received video stream. There is no disclosure in Porter that establishment of the censoring threshold **modifies a video stream** in any manner. That is, assuming *arguendo* that establishing a censoring threshold corresponds to a user action, there is no disclosure that the user action modified the video stream, as provided by claim 6.

With respect to claim 7, the claim recites “wherein the user action is a channel change.” The Office acknowledges at page 4 of the Office Action that these features are not disclosed by the cited references, but asserts that it is old and well known in the art to edit video based on a channel selection. Accordingly, the Office takes “Official Notice” that these features were well-known in the art. However, according to MPEP § 2144.03:

Official notice unsupported by documentary evidence should only be taken by the examiner where the facts asserted to be well-known, or to be common knowledge in the art are capable of instant and unquestionable demonstration as being well-known. As noted by the court in *In re Ahlert*, 424 F.2d 1088, 1091, 165 USPQ 418, 420 (CCPA 1970), the notice of facts beyond the record which may be taken by the examiner must be “capable of such instant and unquestionable demonstration as to defy dispute” (citing *In re Knapp Monarch Co.*, 296 F.2d 230, 132 USPQ 6 (CCPA 1961))....It would not be appropriate for the examiner to take official notice of facts without citing a prior art reference where the facts asserted to be well known are not capable of instant and unquestionable demonstration as being well-known. For example... specific knowledge of the prior art must always be supported by citation to some reference work recognized as standard in the pertinent art [emphasis in original].

Further, “[i]t is **never** appropriate to rely solely on ‘common knowledge’ in the art without evidentiary support in the record, **as the principal evidence upon which a rejection was based.**” *Id.* (emphasis added). In this case, the Office has provided no evidence that editing a video stream based on a channel change was so well-known in the art as to be capable of

instant and unquestionable demonstration as being well-known. Accordingly, the Office has failed to establish that the features of claim 7 are obvious in view of the cited references.

In view of the foregoing, withdrawal of the obviousness rejection of claims 1-13, 16, 17, 19-22, 26-29, 31-37 and 39-46 and reconsideration of the claims is respectfully requested.

#### **Obviousness Rejection of Claims 23-24 and 38**

At page 8 of the Office Action, claims 23-24 and 38 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Porter, Nakaya, Ellis et al. and Hassell et al as applied to claims 1-2, 4, 6-13, 16-17, 19-22, 26-29, 31-37 and 39-46 above, and further in view of Linnartz et al. (U.S. Patent No. 7,336,712). Claims 23 and 24 depend from claim 1. Claim 38 depends from claim 32. As explained above, Porter, Nakaya, Ellis, and Hassell fail to disclose or render obvious at least one element of each of claim 1 and 32. In addition, Linnartz fails to remedy the deficiencies of the other cited references. Accordingly, the cited references fail to disclose or render obvious at least one element of each of claims 23, 24, and 38, at least by virtue of their respective dependence on claims 1 and 32. In addition, these dependent claims recite additional novel elements.

In view of the foregoing, withdrawal of the obviousness rejection of claims 23, 24, and 38 and reconsideration of the claims is respectfully requested.

#### **Obviousness Rejection of Claim 30**

At page 9 of the Office Action, claim 30 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Porter, Nakaya, Ellis and Hassell, and further in view of Matsui et al. (Pub No. US 2003/0086686). This rejection is hereby respectfully traversed. Claim 30 depends from claim 25. Claim 38 depends from claim 32. As explained above, Porter, Nakaya, Ellis and Hassell fail to disclose or render obvious at least one element of claim 25. In addition, Matsui fails to remedy the deficiencies of the other cited references. Accordingly, the cited references fail to disclose or render obvious at least one element of claim 30, at least by virtue of its respective dependence on claims 1 and 32. In addition, claim 25 recites additional novel elements.

In view of the foregoing, withdrawal of the obviousness rejection of claim 25 and reconsideration of the claim is respectfully requested.

### **Conclusion**

The Applicants respectfully submit that the present application is in condition for allowance, and an early indication of the same is courteously solicited. The Examiner is respectfully requested to contact the undersigned by telephone at the below listed telephone number in order to expedite resolution of any issues and to expedite passage of the present application to issue, if any comments, questions, or suggestions arise in connection with the present application.

The Commissioner is hereby authorized to charge any fees that may be required, or credit any overpayment, to Deposit Account Number 50-3797.

Respectfully submitted,

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Date